

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1310 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AHMEDABAD MUNICIPAL CORPN

Versus

KALANIKETAN A FIRM

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 09/04/99

ORAL JUDGEMENT

Mr.A.R.Thakkar for Mr.J.R.Nanavati for the appellant. No one is present on behalf of the respondent although the name of learned Counsel representing the respondent has also been shown in the hearing Board.

2. In the papers of this appeal, there is no certified copy of the impugned order. A simple copy was, therefore, supplied by the learned Counsel for the appellant and we proceed to decide this appeal on that basis.

3. This is an appeal (BPMC Act) against the order dated 19th January 1983 passed by the Chief Judge, Small Causes Court, Ahmedabad, in Municipal Valuation Appeal No.2579 of 1980. The premises in question is in occupation of the respondent who is running the shop in this premises, on the ground floor of Block 'B' of "Nobles Building", situated at the end of Nehru Bridge, Ahmedabad. In respect of the property, the Municipal Corporation assessed the gross rateable value at Rs.27,588/- for the year 1979-80. Aggrieved from the assessment made by the Municipal Corporation, the respondent preferred appeal under Section 406(2)(b) of the BMC Act, before the Small Causes Court, at Ahmedabad and the same was registered as M.V. Appeal No.2579 of 1980 in the Court of Chief Judge, Small Causes Court, Ahmedabad. The Small Causes Court by its order dated 19th January 1983 has partly allowed the appeal and fixed the gross rateable value of the premises in question at Rs.11010/- for the year 1979-80 instead of Rs.27,588/-.

4. Mr.A.R.Thakkar, learned Counsel for the appellant Municipal Corporation, has submitted that it is clear from paragraph 5 of the impugned order that the Small Causes Court has passed this order reducing the gross rateable value to Rs.11,010/- from that of Rs.27,588/- on the basis of the earlier orders passed by it in some other identical matters about which the reference has been made in paragraph 5 of the impugned order and all these orders on the basis of which the present impugned order has been passed, have been set aside by the High Court when the same were taken in appeal before this Court. There is no one to controvert this statement made by Mr.Thakkar and we do not find any reason to disbelieve the statement made by Mr.Thakkar. Even otherwise, looking to the prime location of the premises in question, it appears that the view taken by the Small Causes Court is not correct and there was no material whatsoever to interfere with the assessment of gross rateable value as made by the Municipal Corporation. The impugned order appears to have been passed only on the basis of the parity with reference to the earlier view taken by the Court and whereas the earlier orders which form the basis of the impugned order have already been set aside by this Court, the impugned order cannot be sustained in the eye of law.

5. Accordingly, this appeal succeeds. The impugned order dated 19th January 1983 in M.V. Appeal No.2579 of 1980 passed by the Chief Judge, Small Causes Court, Ahmedabad, is hereby set aside and the assessment as done

by the Municipal Corporation is restored. The appeal is accordingly allowed. No order as to costs.

sreeram.